constitutions — that what is not forbidden is granted — should be applied. The public policy of permitting such delegation is perhaps best shown by the many cases which have, in fact, allowed it under the guise of "powers merely administrative." When violations of the rules made by state boards of health[9] or park commissions[10] are held punishable as offenses against the state, when the orders of railroad commissions are given the effect of positive law,[11] when the authority of examining boards[12] and executive councils[13] to grant or refuse the license of the state to exercise certain professions or occupations is constantly upheld, it is futile to contend that our courts do not sustain delegations of legislative power. Nor is a discretion to fix a rule of law for a third person any the less a legislative power because the range of choice which the commission is authorized to exercise is limited by standards of fairness and reasonableness.[14] The serious difficulties in the path of full delegability of legislative power are the common constitutional provisions as to the manner in which laws shall be enacted.[15] However, as these provisions have never stood in the way of delegations of legislative power to municipal and other local governmental bodies, it is easily possible that they apply only to enactment of formal statutes by the general assemblies.[16]

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WHEN REDRESS FOR A TORTIOUS ACT COMMITTED IN A FOREIGN JURISDICTION WILL BE REFUSED. — While the general rule is that redress for a tort may be had in any jurisdiction where the wrongdoer may be found, certain exceptions exist. If the enforcement of a foreign law, which determines the existence of the tort and the right to recover, would be contrary to public policy as interpreted in the jurisdiction of the forum, the court will decline to act. This is clearly justified if the foreign law is contrary to morality or natural justice, but many courts refuse redress on this ground unless the law of the forum is similar to the foreign law.[1] Courts taking this position fail to grasp the fundamental conception that the obligation sued on is not based on the domestic but on the foreign law.[2] Courts sometimes refuse a remedy for a right arising solely under a foreign statute, such as the right to recover for death by wrongful act, but the better view is that there is no public policy against enforcing such laws.[3] Of course, foreign penal laws will not be enforced, for these are in the nature of a punishment for a wrong to the sovereign, which will not be dealt with by another state. Another, but unsound exception is that there can be no recovery for torts involving foreign real estate.[4] It is said such torts are not transitory but

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[9] Blue *v.* Beach, 155 Ind. 121; Pierce *v.* Doolittle, 130 Ia. 333. *Contra*, State *v.* Burdge, 95 Wis. 390.

[10] Brodbine *v.* Revere, 182 Mass. 598.

[11] Georgia R. R. *v.* Smith, 70 Ga. 694; Matter of N. Y. Elevated R. R. Co., 70 N. Y. 327.

[12] *Ex parte* McManus, 90 Pac. 702 (Cal.).

[13] Brady *v.* Mattern, 125 Ia. 158. See State *v.* Hagood, 30 S. C. 519.

[14] But see *In re* Thompson, 36 Wash. 377; State *v.* Briggs, 45 Ore. 366.

[15] See Santo *v.* State, 2 Ia. 165, 204; People *v.* Election Commissioners, 221 Ill. 9.

[16] See Wentworth *v.* Racine County, 99 Wis. 26; Georgia R. R. *v.* Smith, *supra*.

[1] Ash *v.* Baltimore, etc., R. R Co., 72 Md. 144; The Halley, L. R. 2 P. C. 193.

[2] *Cf.* Machado *v.* Fontes, [1897] 2 Q. B. 231, allowing recovery for a foreign act which, though illegal, did not give rise to a civil liability in the foreign jurisdiction.

[3] Herrick *v.* Minn, etc., Co., 31 Minn. 11.

[4] Livingston *v.* Jefferson, 1 Brock. (U. S.) 203. *Contra*, Little *v.* Chicago, 65 Minn. 48.

local; that is, the right could arise in no other place. This immaterial argument has also been applied to statutory torts; for a right under a particular statute can arise in no other jurisdiction, and on this ground a few courts refuse relief, again disregarding the fact that the right sued on is based solely on the foreign law.[5]

A recent case apparently adopts a new exception, that redress will not be given when the law of the foreign state forbids recovery outside the jurisdiction. A Nevada statute granted a right of action for negligence, but provided that this liability should exist only as ascertained by the courts of Nevada. When suit was brought in a federal court in Utah, relief was denied. *Coyne* v. *Southern Pacific Company*, 155 Fed. 683 (Circ. Ct., Dist. Utah). The result seems unsound, for it is a familiar rule that when a right exists the law of the forum governs the procedure and the remedy. The court was confused by cases where the *lex loci* gives a right only to a peculiar kind of remedy, and where consequently courts cannot afford relief if the law of the forum provides no machinery for that kind of a remedy. Thus, when a Mexican statute gave a right to recover for death by wrongful act and provided that the damages be paid in instalments, the United States court could not properly enforce the right, since it had no power to issue such a decree, and consequently all redress was refused.[6] This class of cases forms a true exception to the general rule under discussion. But if the proper remedy can be granted, the vital question is the existence of the right. So, although in general the statutes of limitations of the forum govern because that is ordinarily a matter of remedy, it is perfectly possible for the law of the place of the act to limit the existence of a particular right to a certain period, after the expiration of which no suit can be brought in any jurisdiction.[7] Similarly it would be possible to make a right destroyable by certain acts such as bringing suit in another jurisdiction. But if the right still exists, a declaration by one state that no remedy shall be given in another state is an attempt to legislate for all the world and to limit the jurisdiction of foreign courts, which must necessarily be futile.

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JURISDICTION OF EQUITY TO AVOID A MULTIPLICITY OF SUITS WHEN ONE IS ARRAYED AGAINST MANY.— Recently there came before the Wisconsin court an interesting case involving equity's jurisdiction to avoid a multiplicity of suits. *Illinois Steel Co.* v. *Schroeder*, 113 N. W. 51. Eighty-four squatters claimed title to the plaintiff's land through their adverse possession tacked to that of M, under whom each claimed. The plaintiff denied M's possession, and had recovered in ejectment against one holding under the same claim. To avoid having to bring eighty-four identical suits, he sought to join all the defendants in one equitable suit and to have the matter set at rest. The defendants interposed a demurrer, which was sustained. First it must be noticed that the plaintiff had no other ground for getting into equity, so that there was a problem apart from joinder of parties in equity, — a distinction frequently overlooked in judicial discussions. The initial difficulty of the court was the lack of privity among the defendants; that is, they had no common title or community of interest in the subject-matter. Some courts

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[5] Crippen *v.* Laighton, 69 N. H. 540.
[6] Slater *v.* Mexican, etc., Co., 194 U. S. 120.
[7] See 18 HARV. L. REV. 220.